

HOUSE BILL No. 1249

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-7-14.

Synopsis: Environmental coverage. Defines "environmental coverage". Prohibits certain policies from providing or being interpreted to provide environmental coverage.

Effective: July 1, 2007.

Ripley

January 11, 2007, read first time and referred to Committee on Insurance.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1249

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-7-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 14. Environmental Coverage**

5 **Sec. 1. This chapter does not apply to bodily injury or property**
6 **damage arising out of heat, smoke, or fumes from a hostile fire**
7 **otherwise covered under an insurance policy.**

8 **Sec. 2. As used in this chapter, "environmental coverage" means**
9 **insurance coverage for an injury, damage, a clean up, a loss, a cost,**
10 **or an expense arising from an actual, an alleged, or a threatened**
11 **discharge, dispersal, seepage, migration, release, escape,**
12 **inhalation, ingestion, or absorption of:**

- 13 (1) an irritant;
14 (2) a contaminant;
15 (3) a pollutant;
16 (4) a hazardous chemical;
17 (5) a hazardous substance;



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- (6) a hazardous waste;
- (7) petroleum;
- (8) a regulated substance; or
- (9) a substance that is:
 - (A) subject to regulation under IC 13 and included within a term defined in IC 13-11-2; or
 - (B) regulated under 42 U.S.C., as amended.

Sec. 3. An insurance policy issued or renewed after June 30, 2007, must not provide, or be interpreted to provide, environmental coverage if the policy contains the following language or substantially similar language:

"Exclusions. This insurance policy does not apply to:

(1) Bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants:

(A) at or from a premises, site, or location that is or was at any time owned or occupied by, or rented or loaned to, an insured;

(B) at or from a premises, site, or location that is or was at any time used by or for an insured or others for the handling, storage, disposal, processing, or treatment of waste;

(C) that are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for an insured or a person or an organization for which the named insured may be legally responsible; or

(D) at or from a premises, site, or location on which an insured or contractors or subcontractors working directly or indirectly on an insured's behalf perform operations:

(i) if the pollutants are brought on or to the premises, site, or location in connection with the operations by the insured, contractor, or subcontractor; or

(ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or otherwise respond to or assess the effects of pollutants.

(2) A loss, a cost, or an expense arising out of a:

(A) request, demand, or order that an insured or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or otherwise respond to or assess the effects of pollutants; or

(B) claim or suit by or on behalf of a governmental authority for damages related to testing for, monitoring,

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cleaning up, removing, containing, treating, detoxifying, or neutralizing, or otherwise responding to or assessing the effects of pollutants.

"Pollutant" means a solid, liquid, gaseous, or thermal irritant or contaminant."

Sec. 4. The term "pollutant", when used in an insurance policy that generally defines "pollutant", means:

- (1) an irritant;
- (2) a contaminant;
- (3) a hazardous substance;
- (4) a hazardous waste;
- (5) petroleum;
- (6) a regulated substance; or
- (7) a substance that is:
 - (A) subject to regulation under IC 13 and included within a term defined in IC 13-11-2; or
 - (B) regulated under 42 U.S.C., as amended.

SECTION 2. [EFFECTIVE JULY 1, 2007] (a) IC 27-7-14, as added by this act, applies to insurance policies issued, delivered, amended, or renewed after June 30, 2007, only for:

- (1) an occurrence; or
- (2) a discharge, a dispersal, a seepage, a migration, a release, or an escape of a pollutant;

that takes place after June 30, 2007.

(b) IC 27-7-14-3, as added by this act, does not preclude an insurer from offering and providing environmental coverage (as defined in IC 27-7-14-2, as added by this act).

(c) IC 27-7-14, as added by this act, does not apply to a part of a policy that provides coverage for an owner-occupied residential property or structure of not more than four (4) dwellings or units.

(d) The department of insurance shall issue a bulletin applicable to all insurance policies issued or renewed after January 1, 2008, that contain the environmental exclusions referred to in IC 27-7-14, as added by this act. The bulletin must direct affected insurers to issue a short, concise statement declaring that the policies do not provide environmental coverage.

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